

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Aaron L. Jones,

: CASE NO.: 20CV-3301

JUDGE MORRISON

Plaintiff,

: MAGISTRATE JUDGE PRESTON
DEAVERS

v.

:

Mike DeWine, *et al.*,

:

Defendants.

:

OPINION AND ORDER

The Court's August 4, 2021 Opinion and Order (ECF No. 37) ("August Order") adopted Magistrate Judge Preston Deavers' March 19, 2021 Order and Report and Recommendation. (ECF No. 30.) In so doing, the August Order dismissed all claims and permitted an amended complaint to be filed as to Plaintiff Aaron Jones only. Mr. Jones's Amended Complaint was deemed filed as of August 4, 2021. (ECF No. 37, PageID 361.) The August Order also denied the following motions as moot: Plaintiffs' Motion for Default Judgment; Petitioner's Emergency Motion to Enforce the Preliminary Injunction Pursuant to 2020 U.S. Dist. LEXIS 87607 INFRA; Motion for Declaratory, Injunctive, and Compensary [sic] Judgment Pursuant to Civ. R 12, Civ. R 55, Civ. R of Civ. Proc. 23 (a)(b)(2) & (3); Motion to Compel Judgment and Execution of Compassionate Release for Compassionate Relief; and Motion for Writ of Execution Pursuant to the 14th Amendment to the

United States Constitution and the Executive Order 2020-01D from Governor Mike DeWine. The August Order further denied Plaintiffs' Motion for the Appointment of Counsel without prejudice.

Mr. Jones' Memorandum Contra to the Respondents and Judges Order (ECF No. 40), which the Court treats as a Motion for Reconsideration, is presently before the Court for review. Therein, Mr. Jones argues that the August Order violated his due process rights because he did not receive a hearing on the Motion for Default Judgment. (ECF No. 40, PageID 375.) Mr. Jones' argument is unpersuasive. His Amended Complaint rendered the Motion for Default Judgment moot. *See Yates v. Applied Performance Techs., Inc.*, 205 F.R.D. 497, 499 (S.D. Ohio 2002) (holding "the filing of the amended complaint in this case did technically render the pending motion to dismiss moot."). No due process violation therefore occurred.

Mr. Jones' Memorandum Contra seemingly seeks compassionate release from state custody under 18 U.S.C. § 3582 due to COVID-19 as he alleges that he has heart problems, breathing issues, and diabetes. (ECF No. 40, PageID 376-77.) The Court is without authority to address this aspect of his Motion, as Mr. Jones's sentence was rendered by a state court. *See United States v. Farley*, No. 17-0211-WS, 2019 U.S. Dist. LEXIS 155483, at *3 (S.D. Ala. Sep. 12, 2019) (holding "federal compassionate release procedures have no application to a defendant serving a state sentence, and this Court lacks authority to order compassionate release of a defendant in state custody.").

Accordingly, Mr. Jones's Memorandum Contra to the Respondents and Judges Order (ECF No. 40) is **DENIED**.

IT IS SO ORDERED.

/s/ Sarah D. Morrison
SARAH D. MORRISON
UNITED STATES DISTRICT JUDGE